

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. APPLN. NO. 10/002,212
ATTORNEY DOCKET NO. A8166

REMARKS

Applicants respectfully request that the Patent Office acknowledge Applicants' claim to domestic priority from U.S. Application Serial No. 09/658,185, filed on September 8, 2000.

Applicants submit that they have complied with the requirements of 37 C.F.R. § 1.78(a)(2), as evidenced by paragraph [0001] of the instant application. Applicants request that the Patent Office acknowledge Applicants' claim to domestic priority in the next Communication from the Patent Office.

Applicants thank the Patent Office for initialing the references listed on the PTO-1449 form submitted with the Information Disclosure Statement filed on December 6, 2001, thereby confirming that the listed references have been considered.

Claims 5-16 and 18-20 are withdrawn from consideration under 37 C.F.R. § 1.142(b) as being drawn to a non-elected species. For at least the reasons discussed below, Applicants believe that claims 5-8 and 18 should be rejoined under 37 C.F.R. § 1.141.

Applicants herein cancel claim 21 without prejudice and/or disclaimer.

The Patent Office objects to claims 3 and 4 as being dependent upon a rejected base claim. Applicants thank the Patent Office for indicating that claims 3 and 4 would be allowed if rewritten in independent form. However, instead of rewriting claims 3 and 4 in independent form, Applicants respectfully traverse the prior art rejections for the reasons set forth below.

Claims 1-20 are all the claims presently pending in the application.

1. Claims 1, 2, 17 and 21 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Hwang (U.S. Patent No. 6,186,352). The rejection of claim 21 is now moot due to its cancellation. Applicants traverse the rejection of claims 1, 2 and 17 for at least the reasons discussed below.

To support a conclusion that a claimed invention lacks novelty under 35 U.S.C. § 102, a single source must teach all of the elements of a claim. *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379 (Fed. Cir. 1986). A claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). A single source must disclose all of the claimed elements arranged as in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). Rejections under 35 U.S.C. § 102 are proper only when the claimed subject matter is identically disclosed or described in the prior art. Thus, the cited reference must clearly and unequivocally disclose every element and limitation of the claimed invention.

Hwang fails to teach or suggest an apparatus comprising an inner base section having an annular retention wall with at least one flow hole disposed in the annular retention wall to allow fluid to flow into and out of the volume of the inner base section, as recited in claim 1. Instead, Hwang discloses, *inter alia*, a container having annular walls that uses a lid to contain fluid within an inner volume defined by the annular walls. No flow holes are disposed within the annular walls of the container to allow fluid to flow therethrough.

Based on the foregoing reasons, Applicants submit that Hwang fails to disclose all of the claimed elements as arranged in claim 1. Therefore, under *Hybritech* and *Richardson*, Hwang clearly cannot anticipate the present invention as recited in independent claim 1. Thus, Applicants submit that claim 1 is allowable, and further submit that claims 2-4 are allowable as well, at least by virtue of their dependency from claim 1. Applicants respectfully request that the Examiner withdraw the § 102(e) rejection of claims 1 and 2.

With respect to independent claim 17, Applicants submit that claim 17 is allowable for at least the same reasons discussed above with respect to claim 1, in that Hwang fails to teach or suggest an inner base section having an annular retention wall with at least one flow hole disposed in the annular retention wall. Therefore, under *Hybritech* and *Richardson*, Applicants submit that claim 17 is allowable, and respectfully request that the Patent Office withdraw the § 102(e) rejection of claims 17.

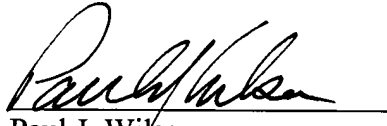
2. Applicants request rejoinder of claims 5-8 and 18 under 37 C.F.R. § 1.141. Applicants submit that claims 5-8 and 18 are species of the invention recited in claims 1-4 and 17. Applicants further submit that claim 17 is now generic, in that it recites an inner section having an annular wall with at least one flow hole and an outer section having an annular wall that corresponds to the inner section. Independent claims 5 and 18 recite at least these features of claim 17. Thus, Applicants request rejoinder of claim 5-8 and 18 under 37 C.F.R. § 1.141, and submit that these claims are allowable as well over Hwang for at least the reasons discussed above with respect to claims 1 and 17.

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In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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